

**Town Council Minutes
Morehead City, North Carolina**

Tuesday, April 8, 2014

The Honorable Council of the Town of Morehead City met in Regular Session on Tuesday, April 8, 2014, at 5:30 p.m., in the Municipal Chambers located at 202 South 8th Street, Morehead City, North Carolina. Those in attendance were:

MAYOR: Gerald A. Jones, Jr.

MAYOR PRO-TEM: George W. Ballou

COUNCIL: William F. Taylor

Demus L. Thompson

Harvey N. Walker, Jr.

Diane C. Warrender

CITY MANAGER: David S. Whitlow

CITY CLERK: Jeanne M. Giblin

CITY ATTORNEY'S OFFICE: Nelson W. Taylor, III; Derek Taylor; Mike Thomas

OTHERS: Holly Fletcher; Tom Kies; Mark Hibbs, Reporter,

THE CARTERET NEWS TIMES; Georgiana Bowman Bircher; Jacob Murphy-Canto; Ryan Zieleck; Ken Wood; Tim Guthrie; Nolan Whipple; Anthony Wipple; Angela Zieleck; Chuck Sewell; Jane Sewell; Cathryn Double; Anthony Colon; Bernette Morris; and several others

I. Regular Meeting Call to Order, Invocation and Pledge of Allegiance

Mayor Jones called the meeting to order at 5:30 p.m., Councilman Thompson gave the invocation. Mayor Jones recognized Boy Scout Troup #334 and they led the attendees in The Pledge of Allegiance.

City Attorney Nelson Taylor stated he had concerns with the wording of some of the proposed resolutions for the various events to be held in Morehead City. He listed these concerns and offered rewording which will be incorporated into the amended Resolutions 2014-17, 2014-18 and 2014-19.

Councilman Ballou requested to remove Item II.J. -- Adopt Resolution 2014-19 Endorsing the Morehead Marlin Pub Run and Authorizing Action Necessary for the Event to be held Saturday, May 17, 2014, in Morehead City from the CONSENT AGENDA. This Item will be added as Item IV.C. under New Business.

II. Adoption of the CONSENT AGENDA

**II.A. Approval of Minutes: Tuesday, March 4, 2014 – Special Meeting
Tuesday, March 11, 2014 – Regular Meeting
Friday, March 28, 2014 – Special Meeting**

Approved the minutes of Tuesday, March 4, 2014, Special Meeting; Tuesday, March 11, 2014, Regular Meeting; and Friday, March 28, 2014, Special Meeting and dispensed with the reading.

II.B. Approve the Requests for Release of Overpayment of Ad Valorem Taxes for March 2014, in the amount of \$0; and Accept the Tax Collector and Finance Director Reports for March 2014

There were no requests for overpayment of ad valorem taxes for March 2014. Accepted the Tax Collector and Finance Director Reports for March 2014. [The Financial Reports are attached to and made a part of these minutes incorporated herein by reference.]

II.C. Approve the Annual Audit Contract with McGladrey, LLP, for FYE 6/30/2014

The Town of Morehead City received the contract to audit accounts for FYE 6/30/2014 from McGladrey, LLP at a price of \$44,500. Morehead City has entered into an agreement with the auditing firm for their services through FYE 6/30/2017. However, the actual annual contract must be approved by the Council each year. The Finance and Administration Committee of the Council reviewed the proposed contract at their last meeting and recommended approval.

Approved the contract for FYE 6/30/2014 audit with McGladrey, LLP, in the amount of \$44,500 for audit services through FYE 6/30/2014.

- II.D. Request for Renewal of a Certificate of Convenience and Necessity [Taxi Franchise] for Brown-Wil Enterprise, Inc., d/b/a Atlantic Beach Taxi, 1010 Fort Macon Road, Atlantic Beach, Wesley E. Brown, President, Ben Willis, Vice-President and William H. Willis, Secretary/Treasurer – Set the date of the Public Hearing for Tuesday, May 13, 2014, at 5:30 p.m.**
- II.E. Request for Renewal of a Certificate of Convenience and Necessity [Taxi Franchise] for Carteret Cab Company, 2401 Bridges Street, Morehead City, Lenzie Griffin, Owner – Set the date of the Public Hearing for Tuesday, May 13, 2014, at 5:30 p.m.**
- II.F. Request for Renewal of a Certificate of Convenience and Necessity [Taxi Franchise] for A-1 Yellow Cab Company, 4104 Azaela Road, Morehead City, Kelly Matthews, Owner – Set the date of the Public Hearing for Tuesday, May 13, 2014, at 5:30 p.m.**

The applications are for renewals of taxi services in Morehead City. The companies have been in business for many years. The City Code provides that a Certificate of Convenience and Necessity be granted for two [2] years. A taxi franchise must pass two [2] readings before the City Council with these requests to set the date of the public hearings being the first reading.

Set the public hearings date of Tuesday, May 13, 2014, at 5:30 p.m., to consider the approval of the request for renewal of a Certificate of Convenience and Necessity [Taxi Franchise] for A-1 Yellow Cab Company, Atlantic Beach Taxi and Carteret Cab Company.

- II.G. Award of Contract No. 84 – Pump Stations 16, 17 & 18 Flow Meters to the Low Bidder, KBS Construction Company, in the amount of \$66,100.00 for Installation of Flow Meters to Pump Stations 16 & 17**

The following bids were received March 18, 2014, for the subject Contract No. 84:

• KBS Construction Company	\$ 95,850.00
• Thomas Simpson Construction	\$106,400.00
• T.A. Loving Company	\$122,500.00
• T & H Construction	\$136,000.00

The scope of Contract #84 included the addition of flow meters at three [3] pump stations. The budget amount set for pump station flow meters project was \$90,000. The total budget for upgrading all three [3] pump stations is \$110,000.00; the total budget for upgrading just two [2] of the stations [16 and 17] is \$77,000.00. The Public Utilities Committee of the Council reviewed the bids and projected budget amounts and recommended to award the contract to KBS Construction Company in the amount of \$77,000.00 for flow meters to pump stations 16 and 17.

Awarded Contract No. 84 – Pump Station 16, 17 & 18 Flow Meters to the Low Bidder, KBS Construction Company, in the amount of \$66,100.00 for the Installation of Flow Meters to Pump Stations 16 & 17. [The bid results are attached to and made a part of these minutes herein by reference.]

- II.H. Award of Contract No. 85 – 9th Street Sewer Replacement to the Low Bidder, KBS Construction Company, in the amount of \$90,545.00**

The following bids were received March 11, 2014 for Contract No. 85:

• KBS Construction Company	\$ 90,545.00
• Thomas Simpson Construction	\$100,438.50
• T.A. Loving Company	\$159,075.00

It is recommended to award the contract to the low bidder, KBS Construction Company in the amount of \$90,545.00. The approved budget for this project was \$130,000.00 with the award of this bid, the projected budget total is \$115,000.00, which is \$15,000.00 under budget. The Public Utilities Committee of the Council reviewed the bids and recommended approval.

Awarded Contract No. 85 – 9th Street Sewer Replacement to the Low Bidder, KBS Construction Company, in the amount of \$90,545.00. [The bid results are attached to and made a part of these minutes by reference.]

II.I. Adopt Resolution 2014-17 Endorsing the Raleigh Salt Water Sportfishing Club King Mackerel Tournament and Authorizing Action Necessary for the Event to be held Friday, July 25 to Sunday, July 27, 2014, on the Morehead City Waterfront

This is the fourth year this group has requested the use of specific waterfront areas and ancillary services from Morehead City. The event is scheduled for July 25 to July 27, 2014, in Jaycee Park. As noted in the proposed resolution, the use of Jaycee Park is contingent upon the tournament not interfering with the Parks & Recreation “Concert in the Park” held at Jaycee Park from 7:00 p.m. until 8:30 p.m. on Saturday. The Public Works Committee of the Council reviewed the request and recommended approval.

Adopted Resolution 2014-17 [As Amended] Endorsing the Raleigh Salt Water Sportfishing Club King Mackerel Tournament and Authorizing Action Necessary for the Event to be held Friday, July 25 to Sunday, July 27, 2014, on the Morehead City Waterfront. [Resolution 2014-17 is attached to and made a part of these minutes herein by reference.]

II.J. Adopt Resolution 2014-19 Endorsing the Morehead Marlin Pub Run and Authorizing Action Necessary for the Event to be held Saturday, May 17, 2014, in Morehead City

This item was removed from the CONSENT AGENDA and placed as Item IV.C. New Business.

Councilman Ballou MOVED, seconded by Councilman Taylor, and carried unanimously, to adopt the CONSENT AGENDA in one [1] motion.

III.A. Public Hearing: City-initiated request to amend Articles 4-32, 12-1.4B, 12-2.2, 14-1.5(D), 14-11, 15-1.2(H), 23-19 and Appendix III of the Unified Development Ordinance [UDO] to correct clerical errors and to clarify requirements regarding business residences in the Downtown Business (DB) and Downtown Commercial (CD) zoning districts; to clarify the required phases for minor subdivisions; and to eliminate non-applicable setback requirements in the Medical Arts (MA) District -- Adopt Resolution 2014-15 and Ordinance 2014-11

Planning Director Linda Staab reported that the proposed ordinance amends certain regulations regarding residential uses in the Downtown District; Minor Subdivisions and Medical Arts District setbacks. The proposed ordinance also corrects clerical errors. At the Planning Board Meeting on March 18, 2014, Tom Saunders MOVED, seconded by Tom Outlaw, and carried unanimously, to recommend approval of the proposed ordinance amendments and to approve the Planning Board Resolution 2014-0003. The Planning Committee of the Council also reviewed the proposed ordinance and recommended adoption.

Mayor Jones opened the public hearing. No one spoke for or against the proposed ordinance.

Mayor Jones closed the public hearing.

Councilman Thompson MOVED, seconded by Councilwoman Warrender, and carried unanimously, to Adopt Resolution 2014-15 and Ordinance 2014-11 granting the City-initiated request to amend Articles 4-32, 12-1.4B, 12-2.2, 14-1.5(D), 14-11, 15-1.2(H), 23-19 and Appendix III of the Unified Development Ordinance [UDO] to correct clerical errors and to clarify requirements regarding business residences in the Downtown Business (DB) and Downtown Commercial (CD) zoning districts; to clarify the required phases for minor subdivisions; and to eliminate non-applicable setback requirements in the Medical Arts (MA) District. [Resolution 2014-15 is attached to and made a part of these minutes herein by reference. Ordinance 2014-11 is attached to Ordinance Book #7 in the vault.]

III. B. Public Hearing: City-initiated request to amend Article 22-3 to add Article 22-3.1(F) of the Unified Development Ordinance [UDO] to address graffiti as a nuisance condition -- Adopt Resolution 2014-16 and Ordinance 2014-12

Planning Director Linda Staab reported that the Unified Development Ordinance does not currently address graffiti as a public nuisance. The following text amendment addresses graffiti as a nuisance and establishes a provision to address such conditions.

Article 22-3.1 *Property maintenance; public nuisances*. It is hereby declared to be a public nuisance for any owner or other person in control of any property or premises to keep or maintain property, premises, or rights-of-way in such a manner that any of the following conditions are found to exist:

[Article 22-3.1\(F\) Any graffiti or marks made by drawing, painting, writing, inscribing, or otherwise defacing any real or personal property.](#)

At the Planning Board Meeting on March 18, 2014, Gordon Thayer MOVED, seconded by Jackie Maucher, and carried unanimously, to recommend approval of the request and to adopt Planning Board Resolution 2014-0004. The Planning Committee of the Council reviewed the amendment.

Upon a question from Councilman Taylor about what prompted this proposed ordinance, Planning Director Staab reported that City staff received complaints about graffiti in areas of the City.

Mayor Jones opened the public hearing. No one spoke for or against the proposed ordinance.

Mayor Jones closed the public hearing.

Councilman Thompson stated he agreed that something needed to be done about the problem of graffiti, but he was concerned that someone could come onto private property and do whatever and then the property owner is held responsible. He continued that he did not know how to alleviate this problem. He discussed the building vandalized by graffiti on 12th Street and stated that if the culprit were to be found, he would be responsible for the cleanup. He suggested that the ordinance state that graffiti could just be painted over.

Councilman Taylor commented that the problem of graffiti on private property is much the same as if a building were damaged, it would be the property owners responsibility to fix it. It is part of ownership and the upkeep of your property.

Councilman Ballou commented that the City is just asking the property owner to cover up the graffiti. If the responsibility does not fall back on the property owner, who else is there to correct it?

Mayor Jones commented that it is still a judgment call, as to what is art and what is graffiti.

Planning Director Staab explained that graffiti is something that was not requested and done without anyone's permission by an unknown. The requirements of this ordinance can be appealed by the property owner following regular channels. This proposed ordinance is not unlike the City citing for illegal dumping with the property owner responsible for the cleanup.

Councilman Walker questioned what if someone wants to place something obscene.

Planning Director Staab reported that the City has a sign ordinance which speaks to obscenities and this would come into play. There is also the argument of free speech.

Councilwoman Warrender MOVED, seconded by Councilman Thompson, and carried unanimously, to adopt Resolution 2014-16 and Ordinance 2014-12 granting the City-initiated request to amend Article 22-3 to add Article 22-3.1(F) of the Unified Development Ordinance [UDO] to address graffiti as a nuisance condition. [Resolution

2014 -16 is attached to and made a part of these minutes herein by reference. Ordinance 2014-12 is attached to Ordinance Book #7 in the vault.]

IV.A. New Business: Waste Industries Contract Extension

Public works Director David McCabe reported that Industries expressed interest in extending their current solid waste collection and disposal contract. The current contract expires in June 2015. This proposal extends the contract until June 2019.

Since it is likely that Morehead City will convert to roll out recycling carts in the upcoming fiscal year other aspects of the contract have become negotiable. Conversion to a roll out cart recycling program offers the ability to collect these materials every other week. This represents a savings for our contractor and a reduction in their fee to the City.

Waste Industries' proposal includes a reduction in their fee of \$.46 from \$10.24/cart/month to \$9.78/cart/month. They have also proposed waiving their \$.16/cart/month cost of living increase which would have been effective this July 1. This figure is calculated based on the January Consumer Price Index, All Items, which was published in February of this year. The combination of the two [2] items represents a savings of \$.62/cart/month. Total annual savings represented by this proposal would be \$26,784 based on 3,600 roll out carts. Current cart count is 3,612.

This savings will be used to reimburse the Solid Waste Reserve Fund which will be used to purchase our recycling roll out carts. This reserve fund is primarily used to replace capital equipment such as our yardwaste collection vehicles and storm debris removal. The Public Works Committee of the Council reviewed the proposed contract extension and recommended approval.

Public Works Director McCabe reported that the City will receive the grant in the amount of \$75,000 to purchase the recycling rollout carts.

Councilwoman Warrender questioned if the changed charges apply this year.

Public Works Director McCabe replied that the savings will not be anticipated until the program is up and running.

Mayor Jones emphasized that household waste/garbage will remain the same on a once a week pickup schedule.

Councilman Taylor stated that the cart is the same size as the current 90 gallon garbage roll out cart.

Councilwoman Warrender explained that any resident who cannot use the recycling roll out cart, will be able to continue to use the current recycling bins.

Councilman Ballou MOVED, seconded by Councilman Taylor, and carried unanimously, to approve the Waste Industries Contract Extension as presented.

IV.B. New Business: Adopt Revised Resolution 2014-18 Endorsing the “Alive at Five” Events and Authorizing Action Necessary for the Event to be Held May 2, June 2, June 19, July 3, July 17, August 1 and August 29, 2014 in Jaycee Park

This resolution replaces Resolution 2014-06 for the same event. The Downtown Morehead City Revitalization Association [DMCRA] requested to hold this event at Jaycee Park instead of Katherine Davis Park. In addition, they are also requested that Shepard Street be closed from 8th Street to 9th Street during the events for the safety of pedestrians. There is no conflict with the use of Jaycee Park by other entities on the stated dates. The reasons for this change are:

- Beautiful water setting.
- Less highway traffic noise.
- Stage setup.
- Better restroom and other facilities.

Councilman Ballou voiced his concern about the noise of the music because Jaycee Park is in close proximity to Harborview Nursing Home.

Tom Kies, Director of the Downtown Morehead City Revitalization Association [DMCRA] admitted that his organization has not contacted the nursing home yet as he was waiting for the Council's approval. However, he stated that the DMCRA has a good relationship with Harbor View Nursing Home and he does not expect any problem.

Councilman Ballou questioned if there were problems can Alive at Five Events be moved back to its original site in Katherine Davis Park?

Tom Kies replied that once the concert series starts his organization prefers continuity as to the site. However, the DMCRA will work with the City and be responsive to the Council's concerns.

Councilwoman Warrender addressed parking issues.

Tom Kies replied that there was probably more parking in this area than at Katherine Davis Park.

Councilman Ballou stated he was in favor of this event, but wanted the DMCRA to work with Harbor View Nursing Home so there is no problem with sound.

Councilman Taylor MOVED, seconded by Councilman Ballou, and carried unanimously, to Adopt Revised Resolution 2014-18 [As Amended] Endorsing the "Alive at Five" Events and Authorizing Action Necessary for the Event to be held May 2, June 2, June 19, July 3, July 17, August 1 and August 29, 2014 in Jaycee Park. [Resolution 2014-18 is attached to and made a part of these minutes herein by reference.]

II.J. New Business: Adopt Resolution 2014-19 Endorsing the Morehead Marlin Pub Run and Authorizing Action Necessary for the Event to be held Saturday, May 17, 2014, in Morehead City

GameON is an event planning company that partners with nonprofits and other organizations to promote and organize sporting events. The profits from this event will be donated to the Downtown Morehead City Revitalization Association to be used to stage the "Alive at Five" Concert series to be held in Jaycee Park. The Public Works Committee of the Council reviewed the proposed resolution at their meeting.

Georgiana Bowman Bircher, a representative from GameOn explained the event saying that registration is online and also paper registration is available at specific stores. An event of this type was done in New Bern last year and was successful. The organization uses the licenses of the current participating businesses in order to serve alcohol. She explained how the identification process for age appropriateness for alcohol consumption was accomplished. Most of the participants are in their upper 30's and 40's. The race/walk starts in waves of 60 participants with a maximum of 350 runners/walkers. The race/walk is not timed for speed. There is a time limit to completion of the run/walk, however, which is an hour to finish to 4.5k route. The participants make stops at restaurants or specific cordoned off areas along the way and the event finishes with a band at a restaurant. There are three [3] stops along the way to have water and/or a 3 ounce sample of beer; at the finish line participants receive an 8 ounce glass of beer. The entire event should finish in an hour and a half [1 ½]. The registration will be at Jacks Waterfront Bar and the Marlin fountain will be the starting/finishing line. The after gathering is at Jack's. The event will start at 6:00 p.m.

Councilman Taylor commented that the time of this event was set up this way as to not interfere with the Boat Show.

Georgiana Bircher continued that they are requesting one [1] police officer to lead the race with a second officer following at the end. GameOn will probably hire additional off-duty officers. As to the open container issue, volunteers will be stationed at the stops to contain the alcohol consumption.

Lieutenant Tim Guthrie of the Morehead City Police Department advised that the goal of the Police Department was to facilitate a safe event. The planned route is good for pedestrian safety, however, the Department cannot post an officer at every intersection and the organizers will have to have this covered.

Councilman Thompson commented on the consumption of alcohol during a race and questioned its origins. He was also concerned about alcohol consumption in neighborhoods. He stated he has already received calls from residents saying that now the City was going to serve beer at the street ends. He stated he would prefer that the event have beer only at the beginning of the race and then at the end.

Georgiana commented that the idea came from Indiana and Florida. She stated that the event attracts an older age group because the event costs \$30 to participate and that was too expensive for the 20 year old age group. The alcohol served at 22nd Street will be on private property and will be contained there. She had no problem with the amendments to the resolution as revised by the City Attorney.

Councilman Ballou requested that City Manager Whitlow work closely with the Police Department with this event to make sure that everything is okay.

Councilman Taylor MOVED, seconded by Councilman Ballou, and carried unanimously, to adopt Resolution 2014-19, [as amended], Endorsing the Morehead Marlin Pub Run and authorizing action necessary for the event to be held Saturday, May 17, 2014, in Morehead City. [Resolution 2014-19 is attached to and made a part of these minutes herein by reference.]

V. Citizen Requests/Comments: None

VI. City Manager's Report:

A. CAMA Grant for Jib Plaza

City Manager Whitlow reported that the City received an email from CAMA advising that the City has received the grant, but as the letter has not as yet been received, he did not know the amount of the grant.

B. Morehead City Fire/EMS - Wildwood Fire Department Possible Merger

City Manager Whitlow reported that both Carteret County and Morehead City are still waiting for the response from the Wildwood Fire Department as to the possible merger with Morehead City Fire/EMS. Morehead City is delaying the staffing analysis because of not knowing the outcome of this.

C. Space Needs Analysis

City Manager Whitlow says he would like to set a work session to start discussing the space needs analysis. The Council and staff received the report from the firm and he would like a commitment of the preferred choice for the staff to pursue.

D. Special Council Meeting – Monday, April 14, 2014 at 5:30 p.m.

Councilwoman Warrender questioned the purpose of the April 14th Special Council Meeting?

City Manager Whitlow explained that it was for a public hearing for feedback for Morehead City to pursue a financial installment agreement for a loan for the Jib Plaza Project.

VII. Council Requests/Comments:

Councilman Walker requested if he could add an item to the CLOSED SESSION regarding economic development and a potential business in opportunity.

VIII. CLOSED SESSION as per G.S. 143.318.11[a][3][4][5][i] to Approve the CLOSED SESSION MINUTES of Tuesday, March 11, 2014; to Receive an Update on the Martin vs. Town of Morehead City and other Potential Litigation from the City Attorney; to Discuss Contractual Matters Concerning the Lease with Coastal Academy; to Discuss Contractual Matters Dealing with Use of City Owned Parks; and to Discuss a Potential Economic Development

Councilman Ballou MOVED, seconded by Councilwoman Warrender, and carried unanimously, to enter into CLOSED SESSION.

Councilman Taylor MOVED, seconded by Councilman Walker, and carried unanimously [Councilwoman Warrender absent], to approve and seal the CLOSED SESSION MINUTES of Tuesday, March 11, 2014.

IX. Adjournment:

There being no further business, the meeting was adjourned at 8:45 p.m.

Gerald A. Jones, Jr., Mayor

Attest:

Jeanne M. Giblin, City Clerk